

LABOUR DEPARTMENT

The 22nd September, 1986

No. 9/8/86-Lab/6963.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workman and the management of M/s (i) State Transport Controller, Haryana, Chandigarh, (ii) Haryana Roadways, Faridabad :—

IN THE COURT OF SHRI A. S. CHALIA, PRESIDING OFFICER, LABOUR COURT,
FARIDABAD

Reference No. 581 of 1985

between

SHRI TILAK RAJ, WORKMAN C/O SHRI BHIM SINGH YADAV, H. NO. 192, SECTOR 15,
FARIDABAD AND THE RESPONDENT-MANAGEMENT OF M/S (i) STATE TRANSPORT
CONTROLLER, HARYANA, CHANDIGARH, (ii) HARYANA ROADWAYS, FARIDABAD

Present:—

Shri Bhim Singh Yadav, for the workman.

Shri K. L. Piplani for the respondent-management.

AWARD

This reference under section 10 (1) (c) of Industrial Disputes Act, 1947 (Act No. 14 of 1947) as amended from time to time and latest by Act No. 49 of 1984 (hereinafter referred as the said Act) was made to this Court by the State of Haryana (Department of Labour),—*vide* its endorsement No. ID/104-85/39066-72, dated 20th September, 1985 to adjudicate upon the dispute of service matter covered by second schedule under Section 7 of the said Act, arisen between Shri Tilak Raj, workman and the respondent-management of M/s State Transport Controller, Haryana, Chandigarh, (ii) Haryana Roadways, Faridabad. Accordingly it has been registered as reference No. 581 of 1985.

2. It has been claimed by the petitioner that on 9th February, 1984 he was appointed as a Ticket Verifier by the respondent at monthly wages of Rs. 425 but his services were terminated on 28th March, 1985. According to him his performance was very good and he has been relieved of his job without any notice and without assigning any reason. It is alleged that the said order is illegal un-lawful, malafide and against the principles of natural justice and abuse of managerial power and it is a case of un-fair labour practice. It has also been pointed by him that he was in continuous service as he has completed more than 240 days in job and as such he is entitled to continue in his job. The request made is that he may be reinstated into service without any break and further with full back wages.

3. On notice, written statement has been filed by the respondent. It is admitted that he was appointed on 9th February, 1984 as Ticket Verifier on Daily wages and had worked upto 27th March, 1985. The contention is that a report against him was received and on that basis his services were terminated and the same is legal and proper, and further he is not entitled for the relief prayed for. By way of rejoinder the petitioner reiterated his claim as well as allegations.

4. On the pleadings of the parties, my learned predecessor had framed the following issue,—*vide* his order, dated 14th January, 1986:—

Whether services of Shri Tilak Raj were terminated rightly and legally and if not, what type of relief he is entitled for? (As per reference).

5. In support of the claim, of petitioner Shri Tilak Raj appeared. On the other hand, Clerk of the respondent has also been examined. I have heard both the sides as represented above. My findings on the said issue is as below :—

- (i) The base as well as foundation of petitioner's claim is that he had worked with effect from 9th February, 1984 to 28th March, 1985 as a Ticket Verifier with the respondent and on the face of it, his period of service has been more than 240 days and his services could not be terminated against mandatory provisions of Section 25-F

of the said Act referred above. So far as first claim is concerned, there appears to be no dispute about the same. Since it has been admitted by the respondent in its written Statement dated 24th December, 1985 that this petitioner had worked with effect from 9th February, 1984 to 28th March, 1985. In this respect documents Ex. M-1 and M-2 can be read with advantage over and above this, there is statement of respondent's clerk who had admitted on the basis of the record that he has worked from 9th February, 1984 to 28th March, 1985. Such is the statement of petitioner also.

Now, the question arises whether respondent was entitled to dispense with his services in the alleged manner? The allegations are that his services had been terminated without any notice or payment of one month pay in lieu of and further without making any compensation. Again it is clear from the respondents record. It is the clerk who has admitted that no retrenchment compensation was given to the workman at the time of termination. In the said act there are mandatory provisions to protect a workman having continuous service,—vide Section 25-B (2) (a)-ii, a workman is in continuous service in case in proceedings period he has worked for 240 days and as such a workman is entitled for protection as required under Section 25-F of the said Act. For the sake of guidance it is reproduced as below :—

Section 25-F :—No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until :—

- (a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of notice;

Provided that no such notice shall be necessary if the retrenchment is under an agreement which specifies a date for the termination of service;

- (b) the workman has been paid, at the time of retrenchment compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months; and

.....

While applying the provisions of the aforesaid Section on the facts of the present case, it is concluded that admittedly no notice was given to the petitioner and further no compensation was also paid to him. The order of terminating his services on the face of it is against the said Section and the order, same is a bad one.

In view of the above discussions, I accept the reference and decide that services of the petitioner were terminated in an illegal manner and he is entitled for reinstatement with full back wages and further with the benefit of continuity of service.

The reference is accordingly answered.

Dated the 25th July, 1986.

A. S. CHALIA,
Presiding Officer,
Labour Court, Faridabad.

Endorsement No. 1797, dated the 30th July, 1986.

Forwarded (four copies), to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act.

A. S. CHALIA,
Presiding Officer,
Labour Court, Faridabad.

KULWANT SINGH,
Secretary to Government, Haryana,
Labour and Employment Department.